

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CSX TRANSPORTATION, INC.,)
)
)
Plaintiff,)
)
)
vs.) **CASE NO.: 2:08-cv-00655-AKK**
)
)
ALABAMA DEPARTMENT OF)
REVENUE,)
et al,)
)
Defendants.)

ORDER

This matter was remanded with instructions to enter declaratory and injunctive relief in favor of Plaintiff CSX Transportation, Inc. (“CSXT”) consistent with the opinions of the Eleventh Circuit Court of Appeals in *CSX Transportation, Inc. v. Alabama Department of Revenue*, 888 F.3d 1163 and 891 F.3d 927 (11th Cir. 2018).

In accordance with those opinions, this Court hereby **DECLARES** that, as long as the State of Alabama retains the sales and use tax exemption for diesel fuel used by water carriers “engaged in foreign or international commerce or in interstate commerce,” Ala. Code §§ 40-23-4(a)(10), 40-23-62(3), the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 11501(b)(4), forbids it from imposing on CSXT the sales and use tax under Ala. Code §§ 40-23-2(1) and 40-23-

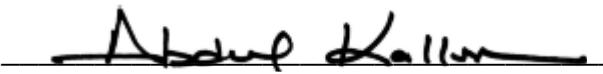
61(a) (or any subsequent re-codifications thereof) on diesel fuel purchased or used by CSXT while “engaged in foreign or international commerce or in interstate commerce.”

Furthermore, Defendants Alabama Department of Revenue, Vernon Barnett in his official capacity of Commissioner of the Alabama Department of Revenue, their agents, successors, managers, supervisors, employees, and all those acting in concert or participating with them who receive actual notice of this Order by publication or otherwise are hereby **ENJOINED** from assessing, levying, or collecting from CSXT sales and use taxes under Ala. Code §§ 40-23-2(1) and 40-23-61(a) (or any subsequent re-codifications thereof) on diesel fuel purchased or used by CSXT while engaged in foreign or international commerce or in interstate commerce.

CSXT shall serve a copy of this Order on all affected individuals and entities.

The Court has been informed that, in order to avoid further litigation in this Court, CSXT and the Alabama Department of Revenue have entered into an agreement to resolve what portion of diesel fuel used by CSXT should be deemed as affecting only intrastate commerce and therefore subject to taxation without violating this injunction. The clerk is directed to close this case.

DONE the 9th day of December, 2019.


ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE